

JACKSON LEWIS SCHNITZLER & KRUPMAN

1000 WOODBURY ROAD • SUITE 402 • WOODBURY, NEW YORK 11797

(516) 364-0404

FAX 1 (516) 364-0466

FAX 2 (516) 364-0488

MODEM (516) 364-0499

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January 18, 2001

VIA FACSIMILE (202) 208-3013

Thomas P. McCarthy
National Labor Relations Board
Resident Office - Region 5
1099 14th Street, NW
Suite 5530
Washington, D.C. 20570-0001

Re: American Institute of Physics

Dear Mr. McCarthy:

As you know, we represent American Institute of Physics ("AIP"). In your January 17, 2001 letter, there are several statements that need clarification. I would appreciate your response to the questions listed below, as soon as possible, so that we can meet the deadline you imposed in your letter.

1. In your letter you state that [REDACTED] has alleged that [REDACTED] "use of time was consistent with what management allows and with the office culture that management maintains." Since AIP is unaware of any employee who has been permitted to use work time for [REDACTED] personal pursuits, we request that you provide us the specifics of this allegation. We would request that you provide us with the names, times and dates and the personal pursuit engaged in by other employees at AIP.

2. The amended charge states that [REDACTED] due to [REDACTED] attempt to form a union at AIP. Does this allegation refer to anything other than the May 22 article in The Chronicle of Higher Education. If not, please specify when [REDACTED] allegedly advocated the formation of a union at AIP and the specific conduct [REDACTED] allegedly engaged in.

*Exemption
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3. In the amended charge, [REDACTED] alleges that on August 29, 2000 AIP announced a rule "prohibiting [REDACTED] from discussing their reviews with other [REDACTED]." Please provide us with a copy of the "rule," since it is AIP's position that no such rule exists.

4. In your letter you state that [REDACTED] alleges that [REDACTED] was "not paid for certain vacation time, personal days and bonus days." Please provide us with the specifics of [REDACTED] claim, including the number and type of days [REDACTED] allegedly was not paid for, the year in which they were earned and when [REDACTED] allegedly was denied payment. We also request an explanation regarding how this claim is related to [REDACTED] charge and amended charge.

5. In your letter you state that if AIP does not permit you to take sworn affidavits from at least [REDACTED] "such refusal will be considered to constitute less than full and complete cooperation with Region 5's investigation of these matters." Please provide us with the statutory, regulatory or case law citation, for the definition of "full cooperation" as you have defined it in your letter. Please also tell us what the implications and consequences are for providing "less than full cooperation," as defined in your letter.

As I previously stated, we request that you provide us with the answers to the questions in this letter as soon as possible, so that we may timely file our response by the January 31, 2001 deadline.

Very truly yours,

JACKSON, LEWIS, SCHNITZLER & KRUPMAN


Alan C. Becker

ACB:kf
Enc

cc:

[REDACTED]
Mark L. Sussman, Esq.

[REDACTED] Lt McCarthy enc questions.wpd